IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Crl.MC.No. 3122 of 2007()

CC.41/2005 of JUDL.MAGISTRATE OF FIRST CLASS-III, KOTTAYAM

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PETITIONER: ACCUSED

SUNIL KUMAR, AGED 41 YEARS,
NAVAKETHAN, TC 17/1747, POOJAPPURA, TRIVANDRUM-12.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS: COMPLAINANT

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1. M/S. KARAPPARA BANKERS, A PARTNERSHIP FIRM REGISTERED UNDER THE INDIAN PARTNERSHIP ACT AND HAVING ITS PRINCIPAL OFFICE AT CENTRAL JUNCTION, KOTTAYAM, REP. BY ITS PARTNER SAJI JOHN, AGED 45, BUSINESS, S/O. JOHN KARAPPARA VETTIYIL, VAKATHANAM KARA, CHANGANACHERRY, KOTTAYAM.

2. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3122 of 2007

Dated this the 10th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The petitioner was employed abroad. He has not entered appearance before the learned Magistrate so far. Coercive processes have been issued against the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is now willing to appear and apply for bail and co-operate with the court for expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific

direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. The petitioner interestingly makes a request that there may be an expeditious disposal of the case in which he has not so far entered appearance. After entering appearance, he can certainly make a request before the learned Magistrate for expeditious disposal of the case against him. Such request shall be considered by the learned Magistrate on merits and in accordance with law.

(R.BASANT, JUDGE)

rtr/-